IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION No. 3489 of 1998

Between:

P.Sreenivasulu, S/o late Obanna,

Aged about 25 years, R/o H.No.14-4,

SRBC colony, Owk Post, Kurnool district. ..... PETITIONER

and

The Superintending Engineer, SRB Circle No.3,

Nandyal, Kurnool district. .....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue any order or writ more particularly in the nature of Writ of Mandamus declaring the action of the respondent in not regularizing the petitioner's service, consequently to direct the respondent to regularize the petitioner's service.

Counsel for Petitioner: Mr. S.KRISHNA MOHAN

Counsel for Respondent.: GP FOR IRRIGATION & COMM AREA DEV.

The Court made the following :

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ORAL JUDGMENT:

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This writ petition is filed seeking a Mandamus to declare the action of the respondent in not regularizing the services of the petitioner as illegal and consequently to direct the respondent to regularize the services of the petitioner.

According to the petitioner, he joined the service of the respondent as a Watchman/Attender on 1-10-1988 on NMR basis and was attached to the Office of the Executive Engineer, S.R.B.C. Division No.3. Initially, he was paid Rs.10/- per day and from time to time, the same was enhanced. His services were disengaged from 20-2-1996. Then, he made an application for regularization of his services and the same was replied through the letter dated 6-9-1997 of the Executive Engineer, SRBC informing that he had not fulfilled the conditions stipulated in G.O.Ms.No.212, dated 20-2-1994. The said G.O. was modified by G.O.Ms.(P) No.112, dated 23-7-1997, which laid certain conditions for regularizing the part-time employees. His grievance is that though he had fulfilled the conditions laid down in the said Governmental Orders and completed nine years of service and is seniormost among all the NMRs, his services have not been regularized.

A detailed counter affidavit has been filed denying the allegations made by the petitioner. Though it was admitted that the petitioner worked as NMR, but it is stated that he is not eligible for regularization in full time contingent post as per G.O.Ms.No.212, Finance Department, dated 22-4-1994, as the cadre of 'NMR' will not come under the purview of the above G.O. in view of the Governmental Memo

dated 29-11-1994. However, the Government had issued G.O.Ms.No.112, dated 23-7-1997 wherein it was stated that the services of the persons appointed on part-time basis and worked continuously for a minimum period of 10 years and continuing as on 25-11-1993 were entitled for absorption into regular posts, subject to fulfilment of the following conditions:

1. Absorption shall be against clear vacancies of posts considered necessary to be continued as per work-load excluding the vacancies already notified to the Andhra Pradesh Public Service Commission or as the case may be, the District Selection Committee.

2. The persons appointed should possess the qualifications prescribed as per rules in force as on the date from which his or her services have to be regularized.

3. The person should be within the age limit as on the date of appointment as part-time employee.

4. The Rule of Reservation wherever applicable will be followed and backlog will be set off against future vacancies."

Since the petitioner does not satisfy the criterion of minimum service of 10 years, he was not entitled for regularization. Further, there are no sanctioned posts for the part-time contingent employees in SRBC Division, Owk and he had not fulfilled the conditions laid down in the said Governmental Orders.

It is admitted that the petitioner has not completed ten years of service as part-time worker. It is stated that there are no sanctioned posts for part-time contingent employees in SRBC Division and the petitioner had not fulfilled the conditions stipulated in G.O.Ms.No.212, dated 22-4-1994 and G.O.Ms.No.112, dated 23-7-1997. Further, it is brought to the notice of this Court that immediately after filing of the writ petition, the work attended to by the petitioner and similarly placed persons was entrusted to a contractor and since then, the petitioner is also working under the contractor. Under those circumstances, no relief as sought for in this writ petition can be granted.

Accordingly, the writ petition is dismissed. No order as to costs.

August 6, 2004

Prk

SPECIAL OFFICER

// TRUE COPY //

SECTION OFFICER

To

1. The Superintending Engineer, SRB Circle No.3,

Nandyal, Kurnool district.

2. 2CCs to G.P. for Irrigation & Command Area Development Department, High Court Buildings, Hyderabad (O.U.T.).

3. 2CD copies.